

**LAW DEPARTMENT  
FISCAL YEAR 2016 BUDGET TESTIMONY  
MAY 5, 2015**

**EXECUTIVE SUMMARY**

**DEPARTMENT MISSION AND FUNCTION**

**Mission:** To provide high-quality legal advice and services to City departments, agencies, boards, and commissions, in a timely and cost effective manner.

**Description of Major Services:** The Law Department (Law) negotiates, drafts, and approves City contracts; maximizes the City's ability to collect delinquent taxes, fines and other debts; represents the City's interests in litigation; counsels departments, agencies, boards and commissions on regulatory compliance and development of policies and procedures; and prepares and assists in the preparation of legislation for introduction in City Council.

**PROPOSED BUDGET HIGHLIGHTS/FUNDING REQUEST**

**Budget Highlights:** The FY16 General Fund Proposed Budget for the Law Department is lower than the FY15 Current Projection due to contractual and appraisal fees that were paid in FY15 and are not expected to be ongoing. Aside from these expenses, the proposed FY16 General Fund Proposed Budget remains relatively flat.

Fund	Class	FY14 Actual	FY15 Projection	Current	FY16 Budget	Proposed	FY16-FY15 Change	FY16-FY15 Percent Change
General	100	6,683,364	7,378,082		7,383,566		5,484	0.1%
	200	6,196,945	8,440,940		7,010,034		(1,430,906)	-17.0%
	300/400	241,712	248,676		248,676		0	0.0%
	500	827,999	0		0		0	0.0%
	Total	13,950,019	16,067,698		14,642,276		(1,425,422)	-8.9%
	Positions	146	152		154		2	1.3%
Other*	100	3,732,065	4,217,282		4,224,646		0	0.0%
	200	1,280,100	1,127,138		1,124,053		(3,085)	-0.3%
	300/400	16,663	67,367		67,367		0	0.0%
	Total	5,028,827	5,411,787		5,416,066		(3,085)	-0.1%
	Positions	54	56		56		0	0.0%
All	100	10,415,429	11,595,364		11,608,212		5,484	0.0%
	200	7,477,045	9,568,078		8,134,087		(1,433,991)	-15.0%
	300/400	258,374	316,043		316,043		0	0.0%
	500	827,999						
	Total	18,978,847	21,479,485		20,058,342		(1,428,507)	-6.6%
	Positions	200	208		210		2	1.0%

\* Other Funds includes: County Liquid Fuels Tax Fund, Special Gasoline Tax Fund, Health choices Behavioral Health Fund, Hotel Room Rental Tax Fund, Grants Revenue Fund, Community Development Fund, Car Rental Tax Fund, Housing Trust Fund, Water Fund, Water Residual Fund, Aviation Fund, and Acute Care Hospital Assessment Fund.

**Staff Demographics Summary (as of December 2014)**

	Total	Minority	White	Female
Full-Time Staff	275	103	172	170
Executive Staff	8	4	4	6
Average Salary - Executive Staff	\$128,107	\$130,539	\$125,675	\$135,223
Median Salary - Executive Staff	\$129,882	\$127,012	\$131,469	\$129,883

**Employment Levels (as of December 2014)**

	Budgeted	Filled
Full-Time Positions	279	275
Part-Time Positions	1	1
Executive Positions	8	8

**Contracts Summary (\*as of December 2014)**

	FY10	FY11	FY12	FY13	FY14	FY15*
Total amount of contracts	\$5,211,324	\$5,549,606	\$5,577,179	\$5,588,387	\$4,829,328	\$6,279,787
Total amount to M/W/DBE	\$2,413,327	\$2,309,562	\$2,284,648	\$2,527,745	\$1,970,130	\$3,364,571
Participation Rate	46%	42%	41%	45%	41%	54%

## PERFORMANCE, CHALLENGES AND INITIATIVES

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### DEPARTMENT PERFORMANCE (OPERATIONS)

- This fiscal year, the Child Welfare Unit assisted the Department of Human Services (DHS) in the implementation of over 20 new amendments to the Child Protective Services Law designed to protect children from abuse. The Unit also worked with DHS on the implementation of Improving Outcomes for Children (IOC). Under IOC, case management is performed by Community Umbrella Agencies (CUAs) that are based in neighborhoods. The cases are assigned by police district. The premise of IOC is to keep children in the community from which they come.
- DHS has made significant progress in rolling out IOC. All of the CUAs are now in place. All new cases, once they move through DHS intake, go to the CUAs for safety and case management services. In the near future, all cases will be entirely transitioned to IOC. Over the last few months, Law Department attorneys have been very involved in training the agencies on court procedures and best practices for Dependency Court.
- As of December 30, 2014, the Law Department was defending 2,853 active litigation cases. For the first two quarters of FY15, a total of 831 cases were settled with 448 cases closed with no payment by the City.
- Also in FY15, the Claims Unit favorably resolved 145 claims out of the 160 claims filed as arbitration matters filed in Common Pleas Court. In 118 of those cases, the City received a complete defense award. In addition, 14 motions filed on behalf of the City were favorably ruled upon resulting in the dismissal of the City as a defendant from the civil action. The Civil Rights Unit defended the City at trial in 24 cases and obtained defense verdicts in 22 of those cases. In addition, the Court has granted over 60 dispositive motions which were filed in other civil rights cases bringing those matters to closure without any City payment.
- Between July 1, 2014 and March 31, 2015, the Code Enforcement Division (“CED”) collected a total of over \$1.5 million in court-imposed fines in Municipal Court and Court of Common Pleas, food establishment costs, and liens and judgments related to remediation performed by the Department of Licenses & Inspections. In addition, since launching a bounced check initiative two years ago, CED collected a total of \$370,000 from contractors who bounced checks paid to the Department of Licenses and Inspection for permit fees.
- The Law Department continues to counsel the Office of Property Assessment (OPA) with respect to all legal issues associated with both the Actual Value Initiative (AVI) by which all 579,000 parcels in the City were reassessed, and the more recent reassessment of 131,000 parcels for which values were certified on March 31, 2015. Additionally, the Law Department represents the OPA in the handling of 24,700 market value appeals filed with the Board of Revision of Taxes (BRT) for Tax Year 2014, an additional 3,900 market value appeals filed with the BRT for Tax Year 2015, and will represent the OPA in all appeals that will be filed in the coming months for Tax Year 2016. The Law Department’s representation of the OPA extends to reviewing each real estate tax exemption application filed and advising whether each subject property is eligible for an exemption from real estate taxes pursuant to all applicable law. Furthermore, the Law Department litigates the appeals of BRT decisions filed in the Court of Common Pleas, of which about 450 have already been filed for Tax Year 2014.
- Working closely with Mayor’s Office and Inspector General, Law drafted a new Executive Order to re-establish Office of Inspector General and to clarify and strengthen the Office’s duties; drafted an ordinance, ultimately adopted by Council, to codify significant cost-savings regarding City pension obligations, particularly for new employees; and drafted a Mayoral Executive Order increasing the living wage to \$12/hour plus an annual escalator, and extending the requirements to employees of subcontractors.

### DEPARTMENT CHALLENGES

- Given the current salary levels of attorneys in the Law Department recruiting attorneys from the private sector to fill vacancies continues to be difficult. Whenever feasible, attorneys already working in the Law Department are promoted to fill vacant positions.
- Because billable rates offered to outside counsel for City work are frequently three to four times lower than the firm’s regular billable rates many more firms are unwilling to accept City legal work, and firms under existing contracts have asked for an increase in the hourly rate. The Law Department uses its best efforts to keep as much legal work in the department as possible and uses outside counsel only in cases where special expertise is needed or where a conflict of interest exists.

- Given numerous and additional mandates required for City contracts, time to review, revise and negotiate those mandates has increased, thereby, slowing the completion of transactions. The City may want to consider streamlining the process by reconsidering certain mandates.

## ACCOMPLISHMENTS & INITIATIVES

**Ethics Legislation:** Since FY08, the Law has worked closely with City Council, the Mayor's Office, and the Board of Ethics to help shape and refine the City's ethics and campaign finance laws, covering gifts, nepotism and outside employment; political activity; conflicts of interest; and contribution limits. Law has also lent critical support to the establishment of a functioning and effective Ethics Board by developing its practice with respect to adjudication, opinion issuance, investigations, and trainings, as well as specific rules regarding political activities and campaign finance.

**Legal Support for Improved Property Assessments:** During FY14, Law worked closely with City Council and the Mayor's Office to develop, and then defend in Court, legislation to transfer the property assessment function from the Board of Revision of Taxes to the new Office of Property Assessment. Attorneys worked extensively with the Mayor's Office, the Office of the Director of Finance and City Council on State and local legislation to implement the actual value initiative (AVI), thus facilitating a fair and uniform property assessment system. Law later defended multiple litigation challenges to the program. Additionally, the Law Department provided advice concerning the implementation of buffering programs such as the Homestead Exclusion/Exemption and the Longtime Owner Occupant Program.

**Transparency in the Philadelphia Code and Charter:** Philadelphia is now at the forefront in transparency when it comes to municipal ordinances. The newly created electronic version of the Code and Charter is available free to the public online and amendments are posted in nearly real time (since FY12). By making all ordinances of City Council that affect the Philadelphia Code available to the public in timely and readily-accessible fashion, the City promotes compliance and respect for the law, and substantially eases the burden on those who wish to comply but may not know the rules. Law also provided substantial legal analysis and drafting support to staff of Zoning Code Commission and to City Council in effecting clarity, consistency, coherence, fairness and enforceability of the new Zoning Code in FY11 and FY12.

**Legal Tools to Support Tax Collection Efforts:** The City significantly stepped up its efforts to increase real estate tax collection for the City and School District. Filings of real estate tax foreclosures increased from an average of 106 filings per month during the first six months of 2009 to an average of 1,075 foreclosures filed per month during the first seven months of FY15; an increase of over 900%. Additionally, the Law Department and Department of Revenue are coordinating efforts with the City's new Landbank to utilize the City's foreclosure tools to remediate blight by assisting in the Landbank's efforts to acquire delinquent vacant land in areas where strategic municipal acquisition will assist in revitalizing neighborhoods.

Additionally, the Law Department worked with the Revenue Department to establish two new innovative tax collection efforts: the Commercial Activity License (CAL) Revocation Program and the Sequestration Program. These tools enable the City to collect delinquent taxes faster and with lower resource expenditures than traditional collection litigation. CAL Revocation provides incentives for businesses to pay their delinquency to avoid revocation of their business license. The Cal Rev program started in FY14 and through January 31, 2015 has collected approximately \$26 million. Sequestration is a strategy by which the City petitions the courts to appoint a receiver to collect rents from tenants to pay the taxes of delinquent rental property owners. The Sequestration program was also started in FY14 and through March 31, 2015 has collected almost \$14 million.

**Code Enforcement:** Beginning in 2012, the Law Department's Code Enforcement Division provided legal representation at all Municipal Court hearings. Previously, hundreds of these smaller enforcement actions filed in Municipal Court each month were presented by staff of the Department of Licenses and Inspections without an attorney present. In an effort to enforce more aggressively, Law attorneys now work directly with the defendants in seeking agreements to resolve the pending action and, where necessary, present the case to a judge. Additionally, Law attorneys will soon receive, review, evaluate and file all Municipal Court case referrals from the Department of

Licenses and Inspections. Until recently, the Department of Licenses and Inspections filed these cases. Law expects this process to be implemented by early 2016.

An ongoing challenge to public safety has been the inability of City inspectors to expeditiously enter and inspect potentially hazardous properties. Because many of the properties are vacant, it is difficult if not impossible for the City to meet its legal obligation to obtain the owner's permission to enter and inspect. However, over the last year, Law, working with Philadelphia court administrators, developed a process for obtaining a civil, or administrative, warrant to permit entry for inspection. Law is now coordinating with the Courts on final approval and implementation of a new process, with a form application to submit to the court, to be followed by a hearing for the Department of Licenses and Inspections inspector or other appropriate City official to make a showing of probable cause. Law expects the new process to launch by July 1, 2015.

**STAFFING**

Of the total Law Department staff of 275 as of December 2014, which includes attorneys, legal assistants, and support staff, 31.2 percent are minority and 61.8 percent are women. At the Executive Committee level, 6 of 8 members are women and 3 are minority.

**Staff Demographics (as of December 2014)**

<i>Full-Time Staff</i>				<i>Executive Staff</i>			
		Male	Female			Male	Female
		African-American	African-American			African-American	African-American
<i>Total</i>		10	68	<i>Total</i>		0	3
<i>% of Total</i>		3.6%	24.7%	<i>% of Total</i>		0.0%	37.5%
		White	White			White	White
<i>Total</i>		88	84	<i>Total</i>		2	2
<i>% of Total</i>		32.0%	30.5%	<i>% of Total</i>		25.0%	25.0%
		Hispanic	Hispanic			Hispanic	Hispanic
<i>Total</i>		3	8	<i>Total</i>		0	0
<i>% of Total</i>		1.1%	2.9%	<i>% of Total</i>		0.0%	0.0%
		Asian	Asian			Asian	Asian
<i>Total</i>		3	5	<i>Total</i>		0	1
<i>% of Total</i>		1.1%	1.8%	<i>% of Total</i>		0.0%	12.5%
		Other	Other			Other	Other
<i>Total</i>		1	5	<i>Total</i>		0	0
<i>% of Total</i>		0.4%	1.8%	<i>% of Total</i>		0.0%	0.0%
		Bi-lingual	Bi-lingual			Bi-lingual	Bi-lingual
<i>Total</i>		0	5	<i>Total</i>		0	0
<i>% of Total</i>		0.0%	1.8%	<i>% of Total</i>		0.0%	0.0%
		Male	Female			Male	Female
<i>Total</i>		105	170	<i>Total</i>		2	6
<i>% of Total</i>		38.2%	61.8%	<i>% of Total</i>		25.0%	75.0%

**CONTRACTING**

**M/W/DBE Participation on Large Contracts  
FY15 Contracts**

Vendor	Service Provided	Amount of Contract	RFP Issue Date	Contract Start Date	Ranges in RFP	% of M/W/DBE Participation Achieved	\$ Value of M/W/DBE Participation	Total % and \$ Value Participation - All	Living Wage Compliant?	
Ballard Spahr LLP	Various labor and employment legal matters	\$4,381,000	05/02/2012	11/01/2012	MBE: 10-15%	6%	\$262,860	100%	Yes	
					WBE: 10-15%	94%	\$4,118,140			
					DSBE: 0%	0%	\$0			\$4,381,000
Community Legal Services (non-profit)	Legal services to indigent Phila residents	\$4,200,000	04/11/2011	07/01/2011	MBE: 25-30%	0%	\$0	0%	Yes	
					WBE: 25-30%	0%	\$0			\$0
					DSBE: 0%	0%	\$0			\$0
Archer & Greiner	Legal services related to Aviation matters	\$2,675,000	Exempt from Posting	02/15/2011	MBE: 0%	90%	\$2,407,500	100%	Yes	
					WBE: 0%	10%	\$267,500			\$0
					DSBE: 0%	0%	\$0			\$2,675,000
RCDH of Pennsylvania, Inc. dba AR Hughes & Co.	Real estate appraisers	\$1,470,000	Exempt from Posting	11/01/2011	MBE: 0%	0%	\$0	0%	Yes	
					WBE: 0%	0%	\$0			\$0
					DSBE: 0%	0%	\$0			\$0
Pietrogallo Gordon Alfano Bosick & Raspanti LLP	Investigative matters	\$1,400,000	12/01/2010	09/20/2011	MBE: 10-15%	0%	\$0	0%	Yes	
					WBE: 10-15%	0%	\$0			\$0
					DSBE: 0%	0%	\$0			\$0

## **OTHER BUDGETARY IMPACTS**

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### FEDERAL AND STATE (WHERE APPLICABLE)

A substantial number of Law Department employees are funded by DHS. If funding to DHS from the federal or state government decreased, the City would be required to increase its proportionate share of dollars to purchase services. It is critical that we maximize our dollars from the federal and state government in light of the rising number of reports, families being accepted for services and children in placement.